

REMARKS/ARGUMENTS

Claims

The Examiner rejected claims 1-9. By this amendment, claims 1 and 6-9 have been amended. Therefore claims 1-9 remain pending in the application.

Double Patenting

The Examiner provisionally rejected claims 1-9 under 35 USC 101 as claiming the same invention as that of claims 1-9 of copending Application No. 10/657,555.

In light of the present amendments and arguments below, it is respectfully requested that the double patenting rejection be withdrawn further to MPEP 804: "If a 'provisional' statutory double patenting rejection is the only rejection remaining in one of the applications (but not both), the examiner should withdraw the rejection in that application and permit that application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application into a double patenting rejection when the application issues as a patent."

Claim Rejections – 35 U.S.C. 102

Claims 6 and 8-9 were rejected under 35 USC 102(e) as being anticipated by Berstis (U.S. patent 6,901,367). The rejection is respectfully traversed.

The disclosure of Berstis focuses on providing detailed translation information, including untranslated original documents to a user. That is very different from the present invention that provides a "Seamless Translation System", which provides no indications to a user that a translation has occurred. See for example paragraph [0053] of the present specification (US 2006/0271349 A1): "This business model is attractive to web-based businesses because their potential customers need never be aware that the site they are visiting is not in their native language."

The above difference between Berstis and the present application is now clarified and emphasized in the currently amended independent claims by reciting that, according to the present invention, it is only the translated electronic communication that is sent to a user, whereby the user is not made aware that a translation has occurred.

Berstis in fact teaches away from the present invention by emphasizing that an original text and a translated text be sent to a user and displayed together. See, for example, Berstis at FIG 3, step 316 ("Send both original communication and translated text to output"); FIG 4, step 425 ("Add translated text in different color or font interspersed with original text"); and FIG 4, step 426 ("Display translated text along with original text").) See also MPEP 2141.02: "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away

from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)."

Thus Berstis clearly does not disclose or suggest a Seamless Translation System as claimed in the present application. The Merriam-Webster online dictionary defines "seamless" as "having no awkward transitions, interruptions, or indications of disparity." (See <http://www.m-w.com/dictionary/seamless>.) Berstis thus does not provide a seamless translation system because Berstis clearly teaches that a translated text be interrupted with the text of an original communication.

Support for the present amendment to the claims stating "whereby the electronic communication in the source language is not automatically provided to the user" is found, among other places, at paragraph [0053] of the present application as originally filed, which states "potential customers need never be aware that the site they are visiting is not in their native language." Further, the applicant respectfully emphasizes that the negative limitation of the currently amended claims is unambiguous and statutory. See MPEP 2173.05(i): "The current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph."

Claim Rejections – 35 U.S.C. 103

Claims 1-5 and 7 were rejected under 35 USC 103(a) as being unpatentable over Berstis (US 6,901,367) in view of Siefert (US 5,778,380).

The Applicant asserts that these remaining rejections of the Examiner are now moot in light of the above amendments and arguments that distinguish Berstis over all of the pending independent claims.

Because the limitations of the presently amended claims are neither disclosed nor suggested in the prior art cited by the Examiner, it is submitted that the application is now in condition for allowance. Reconsideration and allowance of the application is courteously solicited.

Respectfully submitted,
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1/21/2007

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